

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7786

Petition of New Cingular Wireless PCS, LLC,)
d/b/a AT&T Mobility ("AT&T"), for a certificate)
of public good, pursuant to 30 V.S.A. § 248a, for)
the installation of telecommunications equipment)
in Warren, Vermont)

Order entered: 9/23/2011

ORDER RE: REQUEST FOR WAIVER OF NOTICE

I. INTRODUCTION

In this Order, the Vermont Public Service Board ("Board") denies the request filed on September 1, 2011, by New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility ("AT&T" or the "Petitioner"), pursuant to 30 V.S.A. § 248a(j)(2)(B), and the Board's Amended Procedures Order ("Procedures Order"),¹ for a partial waiver of notice regarding a proposed installation of telecommunications equipment at an existing facility in Warren, Vermont.

II. BACKGROUND

On September 1, 2011, the Petitioner filed a letter with the Board requesting, pursuant 30 V.S.A. § 248a(j)(2)(B), that the Board partially waive the notice requirements for its proposed project due "to the significant administrative burden associated" with providing the notice to all adjoining landowners of the project site.² The Petitioner states that it has served the 45-day advance notice required by § 248a(e) on all 335 adjoining landowners "contemporaneously" with the letter filed with the Board. The Petitioner asserts that "in order to alleviate this administrative

1. *Amended order implementing standards and procedures for issuance of a certificate of public good for communications facilities pursuant to 30 V.S.A. § 248a*, Order issued August 10, 2011.

2. Petitioner's Request for Waiver at 1.

burden in future filings in connection with the Project" the Petitioner requests that it be required to notify only those adjoining landowners "reasonably likely to be affected by the Project."³

No comments or requests for hearing regarding the Project have been filed with the Board.

IV. DISCUSSION and CONCLUSION

Pursuant to 30 V.S.A. § 248a(j)(2)(B), an applicant seeking a waiver or modification of notice to adjoining landowners of a project:

shall file a request for such a waiver or modification with the public service board not later than 30 days prior to serving written notice under subsection 248a(e) of this section, . . .

Pursuant to § 248a(e):

No less than 45 days prior to filing an application for a certificate of public good under this section, the applicant shall serve written notice of an application to be filed with the board pursuant to this section to . . . the landowners of record of property adjoining the project sites.

In this case the Petitioner filed the advance notice pursuant to § 248a(e) with the required parties, on September 1, 2011, at the same time as the request for waiver was filed with the Board. Pursuant to § 248a(e) the waiver request is required to be filed 30 days prior to serving the advance notice. Section 248a(e) applies to all waiver requests in a proceeding, even requests related to future notices in a proceeding. Therefore, the request for waiver of future notice in this proceeding is denied as untimely filed.⁴

So ORDERED.

3. Petitioner's Request for Waiver at 1-2.

4. Even if we were to consider the request for waiver as timely filed, the Petitioner has not shown that notice to all adjoining landowners would be overly burdensome. Given that the Petitioner has already sent out the 45-day advance notice, the Petitioner has already identified all the adjoining landowners and, presumably, created a mailing list for the advance notice. The Petitioner has not shown a significant additional burden associated with notifying these same individuals regarding future filings in this case.

Dated at Montpelier, Vermont, this 23rd day September, 2011.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: September 23, 2011

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.